

Appl. No. 09/747,238
Amdt. Dated June 28, 2005
Reply to Office Action of February 28, 2005

REMARKS/ARGUMENTS

This Amendment is in response to an Office Action mailed February 28, 2005. In the Office Action, claim 10 was rejected under 35 U.S.C. §112, second paragraph; claim 3 was rejected under 35 U.S.C. §102; and claims 3-28 were rejected under 35 U.S.C. §103(a). Claims 3-6, 9, 12, 15, 20 and 25 have been amended. Claim 10 has been cancelled without prejudice. Applicant respectfully traverses these rejections.

Claim Objection

Claim 10 was objected to under 37 C.F.R. §1.75 as allegedly being of improper dependent form. Applicant has cancelled claim 10 without prejudice. Withdrawal of the objection is respectfully requested.

Rejection Under 35 U.S.C. §112

Claim 10 was rejected under 35 U.S.C. §112, second paragraph. Applicant has cancelled claim 10 without prejudice. Withdrawal of the outstanding §112 rejection is respectfully requested.

Rejection Under 35 U.S.C. § 102

Claim 3 was rejected under 35 U.S.C. §102(e) as being anticipated by Patel (U.S. Patent No. 6,627,660). Applicant traverses the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, "every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim." Brown v. 3M, 265 F.2d 1349, 1351 (Fed. Cir. 2001). In other words, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Veregaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).

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Applicant respectfully contends that a *prima facie* case of anticipation has not been established because Patel does not teach each and every element set forth in claim 3. For instance, column 7, lines 13-20 & column 9, lines 48-58 of Patel do not teach the operation of producing a secret value...*in response to a periodic event, the periodic event being a power-up sequence* by a platform employing the first device. *Emphasis added.* Rather, Patel is directed to generation of an identifier of a security association (SPI) and keys. Moreover, Patel does not describe "receiving a first command from a second device by a first device, the first command being generated only once upon detecting an initial power-up sequence by the first command" as now set forth in newly amended claim 3.

Based on the foregoing, Applicant respectfully requests that the §102(e) rejection be withdrawn.

Rejections Under 35 U.S.C. §103

A. Claims 3-7

Claims 3-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Schneier ("Applied Cryptography") in view of Menezes ("Handbook of Applied Cryptography", Section 12.3) and Levy (U.S. Patent No. 6,212,633). Applicant respectfully traverses the rejection and contends that a *prima facie* case of obviousness has not been established for each of these claims.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988).* Herein, the combined teachings of the cited references fail to describe or suggest all the claim limitations.

For example, with respect to independent claim 3, Applicant respectfully submits that neither Schneier, Menezes nor Levy, alone or in any combination, teaches or suggests each and

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every limitation set forth in claims 3-7. In particular, none of the cited references suggest the following:

receiving a first command from a second device by a first device, *the first command being generated only once upon an initial power-up sequence by the second device.* Emphasis added.

The limitation of the producing a secret value being a combination of data (e.g., a long-term value) and a short-term value is allegedly taught by Menezes (page 499, paragraph 2) as set forth on page 6 of the Office Action. However, Menezes is devoid of generation of data (K or K') based on an initial power-up sequence by another device as now claimed.

With respect to claims 4-7, based on their dependency on independent claim 3, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted.

In addition, with respect to claim 4, the claimed devices are a chipset in communication with an integrated circuit (IC) component. The IC component is a packaged processor and memory, such as a TPM for example. With respect to claim 5, Applicant traverses the rejection and the Official Notice taken by the Examiner. In particular, Applicant has amended independent claim 3 to include limitations associated with the transmission of a command to control subsequent generation of data (e.g., LTV value) in response to an initial power-up sequence by another device.

In light of the foregoing, Applicants respectfully request that the outstanding §103(a) rejection as applied to claims 3-7 be withdrawn.

B. Claims 9-10 & 12-13

Claims 9-10 and 12-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pitchenik (U.S. Patent No. 6,397,328) in view of Menezes et al. ("Handbook of Applied Cryptography", Sections 12.2-12.3) and Levy. Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established for these claims.

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For instance, with respect to claim 9, the Office Action states that FIG. 2 of Pitchenik discloses the "long-term value is generated in response to an initial power-up sequence when the first device is in communication with the second device." Upon review of FIG. 2 and the corresponding text on column 2 (lines 25-32), Applicant respectfully submits that Pitchenik does not provide such teachings. FIG. 2 of Pitchenik discloses generation of a key during first initialization of the Host PC, but there is no teaching or suggestion that a long term value is generated within a first device *upon detecting an initial power-up sequence and receipt of information from a second device* as claimed.

Based on the dependency of claims 11 and 12 on independent claim 9, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §103(a) rejection as applied to claims 9 and 11-12 is respectfully requested.

C. Claims 15-16 & 18

Claims 15-16 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Davis (U.S. Patent No. 5,818,939) in view of Menezes et al. ("Handbook of Applied Cryptography", Sections 12.2-12.3) and Burns ("INTEL: Intel introduces new chipset for intel Pentium III processor-based performance PCs"). Applicant respectfully traverses this rejection because a *prima facie* case of obviousness has not been established for these claims.

With respect to independent claim 15, Applicant respectfully submits that neither Davis, Menezes et al. nor Burns, alone or in any combination, teaches or suggests each and every limitation set forth in claim 15. In particular, incorporating the arguments set forth above, none of the cited references suggest the following:

an asymmetric key generation unit contained within the package, the asymmetric key generation unit to generate a long term value and a short term value, *the long term value generated upon detecting an initial power-up sequence based on information provided by the ICH*. Emphasis added.

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Based on the dependency of claims 16 and 18 on independent claim 15, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted.

Applicant respectfully requests the Examiner to reconsider the allowability of these claims and withdraw the outstanding §103(a) rejection as applied to claims 15-16 and 18.

D. Claims 20, 22-23, 25-26 & 28

Claims 20, 22-23, 25-26 and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Davis in view of Menezes. Applicant respectfully traverses this rejection because a *prima facie* case of obviousness has not been established for these claims.

With respect to independent claims 20 and 25, Applicant respectfully submits that neither Davis, nor Menezes, alone or in any combination, teaches or suggests each and every limitation set forth in these claims. In particular, none of the cited references suggest an asymmetric key generation unit or code to generate data (a unique long term value) for permanent storage in a protected area of memory *in response to an initial non-repeating event. Emphasis added.* Both Davis and Menezes are devoid of any suggestion regarding this limitation.

Based on the dependency of claims 22-23, 26 and 28 on independent claims 20 and 25, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §103(a) rejection as applied to claims 20, 22-23, 25-26 and 28 is respectfully requested.

E. Claims 8, 11, 14, 17, 19, 21, 24 & 27

Claims 8, 11, 14, 17, 19, 21, 24 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over various cited references. While Applicant respectfully traverses these rejections in their entirety because a *prima facie* case of obviousness has not been established, these claims are dependent on allowable independent claims. Based on the dependency of these claims, no further discussion as to the grounds for traverse is warranted. Applicant reserves the

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right to present such arguments in an Appeal is warranted. Withdrawal of the §103(a) rejection as applied to claims 8, 11, 14, 17, 19, 21, 24 and 27 is respectfully requested.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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William W. Schaal

June 28, 2005

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